

we cannot afford that. I hope someone will come to the floor next week or the week after on the other side and say we cannot afford \$87 billion for Iraq, then, either. If we cannot afford \$292 million for our Native-American population, who are experiencing life or limb tests, then I sure hope we will not hear the argument on the other side that somehow we can afford providing health care dollars to the Iraqi children. I bet that is exactly what we are going to hear—\$87 billion worth of requests. It is a double standard.

I yield the floor.

Mr. BURNS. The pending amendment No. 1734, offered by the Senator from South Dakota, increases discretionary spending in excess of the 302(b) allocation to the Subcommittee on Interior of the Appropriations Committee. Therefore, I raise a point of order against the amendment pursuant to section 302 of the Budget Act.

Mr. DASCHLE. I move to waive the relevant portions of the balanced budget amendment and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the motion. The clerk will call the roll.

The legislative clerk called the roll.

Mr. REID. I announce that the Senator from North Carolina (Mr. EDWARDS), the Senator from Florida (Mr. GRAHAM), the Senator from Massachusetts (Mr. KERRY), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Maryland (Ms. MIKULSKI) and the Senator from Georgia (Mr. MILLER) are necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea."

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 49, nays 45, as follows:

[Rollcall Vote No. 356 Leg.]

YEAS—49

Akaka	Dayton	Lincoln
Baucus	Dodd	McCain
Bayh	Dorgan	Murkowski
Biden	Durbin	Murray
Bingaman	Feingold	Nelson (FL)
Boxer	Feinstein	Nelson (NE)
Breaux	Harkin	Pryor
Byrd	Hollings	Reed
Campbell	Inouye	Reid
Cantwell	Jeffords	Rockefeller
Carper	Johnson	Sarbanes
Clinton	Kennedy	Schumer
Coleman	Kohl	Stabenow
Collins	Landrieu	Stevens
Conrad	Lautenberg	Wyden
Corzine	Leahy	
Daschle	Levin	

NAYS—45

Alexander	Cochran	Frist
Allard	Cornyn	Graham (SC)
Allen	Craig	Grassley
Bennett	Crapo	Gregg
Bond	DeWine	Hagel
Brownback	Dole	Hatch
Bunning	Domenici	Hutchison
Burns	Ensign	Inhofe
Chafee	Enzi	Kyl
Chambliss	Fitzgerald	Lott

Lugar	Sessions	Sununu
McConnell	Shelby	Talent
Nickles	Smith	Thomas
Roberts	Snowe	Voinovich
Santorum	Specter	Warner

NOT VOTING—6

Edwards	Kerry	Mikulski
Graham (FL)	Lieberman	Miller

The PRESIDING OFFICER. On this vote, the yeas are 49 and the nays are 45. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The point of order is sustained and the amendment falls.

ORDER OF PROCEDURE

Mr. MCCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to executive session and immediately vote on the confirmation of Executive Calendar No. 357, the nomination of Kim R. Gibson to be U.S. District Judge for the Western District of Pennsylvania, with no intervening action or debate; further, that there be 2 minutes equally divided in the usual form prior to the vote; further, that following the vote, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, the Senate then return to legislative session, and Senator KENNEDY be recognized for up to 10 minutes in morning business, to be followed by Senator FEINGOLD for up to 8 minutes, to be followed by the majority leader, or his designee, for up to 10 minutes, and the Senate then stand in recess under the previous order.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, the two managers of the bill are contemplating, at 2:15, when we come back, the Senator from California taking up her amendment. She has requested 20 minutes. Then it is my understanding the managers of the bill, in conjunction with the leaders, are going to try to set a series of votes after the debate on the Boxer amendment is completed.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. MCCONNELL. I thank the Chair.

EXECUTIVE SESSION

NOMINATION OF KIM R. GIBSON, OF PENNSYLVANIA, TO BE UNITED STATES DISTRICT JUDGE FOR THE WESTERN DISTRICT OF PENNSYLVANIA

The PRESIDING OFFICER. The Senate will proceed to executive session, and the clerk will report the nomination.

The legislative clerk read the nomination of Kim R. Gibson, of Pennsylvania, to be United States District Judge for the Western District of Pennsylvania.

The PRESIDING OFFICER. Who yields time?

Mr. LEAHY. Mr. President, I yield my time to the Senator from Pennsylvania, Mr. SPECTER.

The PRESIDING OFFICER. The Senator from Pennsylvania, Mr. SPECTER, is recognized.

Mr. SPECTER. Mr. President, I am sure my colleagues want to hear about the outstanding qualifications of this judicial nominee so they will be prepared to vote yea or nay.

The Senate is about to vote on the nomination of Common Pleas Judge Kim Gibson for the U.S. District Court for the Western District of Pennsylvania. Judge Gibson now serves on the State court, where he has been a distinguished jurist since 1998. He has gone through the bipartisan, non-partisan nominating panel that Senator SANTORUM and I have set up. He is a graduate of the U.S. Military Academy in 1974. He has a law degree from Dickinson Law School, magna cum laude, 1975. He served with the defenders office helping the indigent. He has had a distinguished practice and now is on the Common Pleas bench in Somerset County, PA. He is well grounded academically, well grounded professionally, and I recommend to my colleagues that he will make an outstanding Federal judge.

I now yield to Senator SANTORUM.

Mr. SANTORUM. Mr. President, I associate myself with the remarks of the senior Senator from Pennsylvania. I thank my colleagues for allowing the vote to go forward on this very distinguished individual.

Mr. LEAHY. Mr. President, today we vote to confirm another district court nominee, to the Western District of Pennsylvania. This nominee, Mr. Kim Gibson, is currently a judge on the Court of Common Pleas in Somerset County, in Western Pennsylvania. Judge Gibson is a graduate of West Point Military Academy and graduated second in his class from Dickinson School of Law in Carlisle, PA. Over the course of his career he has served in the Army's Judge Advocate General Corps and the public defender service. Not surprisingly, the ABA gave this nominee its highest rating—unanimous "well qualified."

With today's confirmation, the Senate has now confirmed 154 judicial nominees for this President. As I noted this week, the current pace of confirmation stands in stark contrast to what occurred with judicial nominees during the Clinton administration. It was not until well into the fourth year of President Clinton's second term when Republicans controlled the Senate, before this many judicial nominees were confirmed. It took President Reagan, during his first term, almost to the end of his fourth year to get this many judicial nominees confirmed, and that was with a Senate that was controlled by the same party. It also took President George H.W. Bush well into his fourth year to get this many of his judicial nominees confirmed.

In contrast, today, with the shifts in Senate control, it has effectively taken